

UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

In RE: Maranda Grasley	:	Chapter 13
Debtor	:	
	:	22-02354
Maranda Grasley,	:	
Objector	:	Re. Proof of
v.	:	Claim No. 5
Midland Credit Management, Inc.	:	
Respondent / Claimant	:	

**AMENDED MOTION IN LIMINE TO  
EXCLUDE CLAIMANT’S DOCUMENTS**

**COUNT ONE: “AFFIDAVIT OF SALE”  
ATTACHED TO PROOF OF CLAIM NUMBER 5**

1. Claimant relies on a document called an “AFFIDAVIT OF SALE” as the assignment. But the so called “AFFIDAVIT OF SALE” is deficient in ways including but not limited to the following.

a. The so called “AFFIDAVIT OF SALE” does not identify the Debtor in any way.

b. The so called “AFFIDAVIT OF SALE” does not have the account number for the account which is the subject matter of this proof of claim.

c. The so called “AFFIDAVIT OF SALE” cannot possibly be the true assignment because it refers to another document called a “Purchase and Sale

Agreement.” But the “Purchase and Sale Agreement” was not included with the proof of claim. Nor was any form of it given to Debtor’s Counsel by Claimant’s Counsel despite a duly served request for production of documents and things on or about September 6, 2023.

2. The so called “AFFIDAVIT OF SALE” is impermissible hearsay withing the meaning of Federal Rule of Evidence 801, and not a true business record within the exception of Federal Rule of Evidence 803(6). It was made after the fact of any true assignment, if any assignment even occurred. And it appears to have been made with an eye to litigation. See *Aamco Transmissions v. Baker United States District Court for the Eastern District of Pennsylvania*, 06-CV-05252 (2008).

3. The purported “Purchase and Sale Agreement” is a “writing” upon which the claim is based and should be attached to the POC per Federal Rule of Bankruptcy Procedure 3001, and ought to be produced or the claim should fail.

4. The purported “Purchase and Sale Agreement” would be among the best evidence of the assignment of the account if there were an assignment at all. This is consistent with Federal Rule of Evidence 1002 which provides as follows.

Rule 1002. Requirement of the Original

An original writing, recording, or photograph is required in order to prove its content unless these rules or a federal statute provides otherwise.

COUNT TWO: "BILL OF SALE"

5. The previous paragraphs are incorporated by reference and made a part of this pleading.
6. Claimant has also attached a so called "BILL OF SALE" dated November, 2022 to the amended Proof of Claim Number 5.
7. The so called "BILL OF SALE" is problematic for reasons including but not limited to the following.
  - a. The so called "BILL OF SALE" does not identify the Debtor in any way.
  - b. The so called "BILL OF SALE" does not have the account number for the account which is the subject matter of this proof of claim.
8. The so called "BILL OF SALE" refers to another document called the "Forward Flow Accounts Purchase Agreement dated as of 10<sup>th</sup> day of November, 2022." But the "Forward Flow Accounts Purchase Agreement dated as of 10<sup>th</sup> day of November, 2022" was not attached to the amended proof of claim or supplied to

Debtor's Counsel after duly served discovery requests ignored by Claimant's Counsel.

9. Claimant has refused to produce even a redacted copy of the so called "Forward Flow Accounts Purchase Agreement dated as of 10<sup>th</sup> day of November, 2022" despite duly served document production requests on or about September 6, 2023.

10. The so called "Forward Flow Accounts Purchase Agreement dated as of 10<sup>th</sup> day of November, 2022" is a "writing" upon which the claim is based and should be attached to the POC per Federal Rule of Bankruptcy Procedure 3001, and ought to be produced or the claim should fail.

11. The so called "Forward Flow Accounts Purchase Agreement dated as of 10<sup>th</sup> day of November, 2022" would be among the best evidence of the assignment of the account if there were an assignment at all. This is consistent with Federal Rule of Evidence 1002 which provides as follows.

Rule 1002. Requirement of the Original

An original writing, recording, or photograph is required in order to prove its content unless these rules or a federal statute provides otherwise.

12. Claimant's so called "Bill of Sale" and the so called "Affidavit of Sale" are not the assignment and they do not prove the content of the assignment. Instead they are documents about the assignment. Claimant should be required to produce the best evidence of the assignment.

13. The true underlying assignment documents are an essential part of the Claim and for substantive reasons failure to provide the assignment should be fatal to the claim. *Four Seasons Investments, LLC v. Susan Petrucci*, No. AR-10-005022I. in the Court of Common Pleas of Allegheny County, Pennsylvania, Civil Division, Wettick, J.-May 10, 2011.

COUNT THREE: "AFFIDAVIT IN SUPPORT OF RESPONSE TO OBJECTION  
TO PROOF OF CLAIM NUMBER 5" DATED SEPTEMBER 18, 2023 AND  
FILED OCTOBER 20, 2023

14. The previous paragraphs of this pleading are incorporated by reference.

15. Claimant has filed an Affidavit signed by one Angel Naymen, Vice President of Litigation Support of Synchrony Bank dated September 18, 2023. The Affidavit was filed October 20, 2023.

16. The affidavit was not made at the time of the transaction or occurrence, act or omission.

17. The affidavit is not a true business record.

18. The affidavit was made with an eye to litigation.

19. The affidavit is impermissible hearsay in violation of Federal Rule of Evidence 801.

20. The Affidavit does not fall within the business record exception to the hearsay rule of 803(6). See *Aamco Transmissions v. Baker* United States District Court for the Eastern District of Pennsylvania, 06-CV-05252 (2008).

**COUNT FOUR: PURPORTED GOVERNING CONTRACT / CARDHOLDER  
AGREEMENT OFFERED BY CLAIMANT**

21. The previous paragraphs are incorporated by reference.

22. Claimant has attached a purported contract / cardholder agreement to the amended proof of claim. By doing so Claimant stated or implied that such document was the governing contract for the account which is the subject of the POC. See attached exhibits.

23. The purported contract provided filed by Claimant is highly questionable for reasons including but not limited to the following.

- a. Debtor's signature does not appear on the purported contract.
- b. There is no date on the purported governing contract.

- c. The purported governing contract does not contain Debtor's address, unlike the statements supplied by Claimant which do contain Debtor's address.
- d. The Proof of Claim does not demonstrate that the purported contract was ever sent to the Debtor or that Debtor received it.
- e. There is no account number on the purported contract linking this account to the invoices supplied by Claimant.
- f. Debtor's Counsel wrote to Claimant requesting documentation of when the purported governing contract was sent to Debtor by the original creditor and when it was received. See attached exhibits. But Debtor has not provided such information except an affidavit signed by Angel Nayman, "Vice President of Litigation Support," of Synchrony Bank, dated September 18, 2023, and filed October 20, 2023.



24. Claimant has filed an affidavit signed by Angel Nayman, “Vice President of Litigation Support,” of Synchrony Bank, dated September 18, 2023, and filed October 20, 2023. The affidavit states that the account was opened on June 10, 2021, and that the contract was mailed to the Debtor by Synchrony Bank “on or about June 13, 2021.” But the affidavit is impermissible hearsay according Federal Rule of Evidence 801. It does not fit within the business record exception of Federal Rule of Evidence 803(6) or any other exception to the hearsay rule. It is not a true business record under Rule 803(6) because it was clearly made after the fact with an eye to litigation. See *Aamco Transmissions v. Baker United States District Court for the Eastern District of Pennsylvania*, 06-CV-05252 (2008).

25. Claimant’s affidavit dated September 18, 2023 does not specify the date on which the contract / card holder agreement was mailed to the Debtor by Synchrony Bank. Instead the affidavit states “on or about June 13, 2021.” The “on or about June 13, 2021” appears to be a guess or estimation and not based on any business record.

26. The Affidavit dated September 18, 2023 and filed October 20, 2023, contains an entirely different cardholder agreement than that which was attached to the Proof of Claim. A side by side comparison of the two purported agreements

reveals that they are NOT THE SAME AGREEMENTS. They have contradictions which including but are not limited to the following.

- a. The purported cardholder agreement attached to the amended proof of claim filed June 28, 2023 contains certain serial numbers or other type of identifying numbers or codes which to NOT appear on the purported cardholder agreement filed with the affidavit filed October 20, 2023.
- b. The purported cardholder agreement filed with the affidavit filed October 20, 2023 contains a signature block of one Margaret Keane, CEO of Synchrony Bank which is not present on the purported agreement filed with the proof of claim.
- c. Upon information and belief, Margaret Keane resigned as the CEO of Synchrony Bank in April of 2021, according to numerous internet search results which Debtor asks the Court to take judicial notice of. According to the

Affidavit filed on October 20, 2023 the account was opened on June 10, 2023, and the purported cardholder agreement signed by Margaret Keane attached to said affidavit was mailed to the Debtor by Synchrony Bank on or about June, 2021 approximately 3 months after she had left her position as the CEO of Synchrony Bank. It makes little sense that a cardholder agreement bearing the wrong name for the bank CEO would have been mailed to Debtor when Synchrony Bank's affidavit said it was mailed. For more information about when Margaret Keane left her office as the CEO of Synchrony Bank see the following websites which the Court may take judicial notice of.

<https://www.cnbc.com/2021/01/11/synchrony-ceo-margaret-keane-steps-down-.html>

<https://www.forbes.com/sites/maggie-mcgrath/2021/01/12/synchrony-ceo-margaret-keane-stepping-down->

leaving-sp-500-with-one-less-woman-  
at-the-helm/?sh=797a390416e6

- d. Both the purported cardholder agreement / governing contracts have different interest rate tables.
- e. The Affidavit dated September 18, 2023 and filed October 20, 2023 does not mention anything about the purported cardholder agreement attached to the Proof of Claim. No explanation is given in the affidavit about the conflicting cardholder agreement attached to the proof of claim.

### CONCLUSION

- 27. The previous paragraphs of this pleading are incorporated by reference.
- 28. The so called “AFFIDAVIT OF SALE” is not a true business record and should be excluded from the litigation since it does not even reference the Debtor’s name or the account number, and because it was made with an eye to litigation.

29. The so called “BILL SALE” is not a true business record and should be excluded from the litigation since it does not even reference the Debtor’s name or the account number, and because it was made with an eye to litigation.

30. The “AFFIDAVIT IN SUPPORT OF RESPONSE TO OBJECTION TO PROOF OF CLAIM NUMBER 5” signed September 18, 2023 and filed October 20, 2023 is not a true business record because it was not made at the time of the transaction or occurrence. Instead it was made after the fact with an eye to litigation and should be excluded. See *Aamco Transmissions v. Baker United States District Court for the Eastern District of Pennsylvania*, 06-CV-05252 (2008).

31. Debtor requests an Order from this Honorable Court excluding Claimant’s “AFFIDAVIT OF SALE,” “BILL OF SALE” AND “AFFIDAVIT IN SUPPORT OF RESPONSE TO OBJECTION TO PROOF OF CLAIM NUMBER 5” from any hearing on the merits of this case.

32. Debtor requests an Order from this Honorable Court excluding one or both of the purported governing contract / cardholder agreements from any hearing on the merits of this case.

33. Debtor requests such other relief as this Honorable Court deems proper.

Wherefore, Debtor requests an Order from this Honorable Court excluding the following documents expended to be proffered by Claimant.

- a. "AFFIDAVIT OF SALE" attached to the Amended Proof of Claim.
- b. "BILL OF SALE" attached to the Amended Proof of Claim.
- c. "AFFIDAVIT IN SUPPORT OF RESPONSE TO OBJECTION TO PROOF OF CLAIM NUMBER 5" filed by Claimant on October 20, 2023.
- d. An Order from this Honorable Court excluding one or both of the purported governing contract / cardholder agreements from any hearing on the merits of this case.

Debtor requests such other relief as this Honorable Court deems proper.

/s/ Vicki Piontek

11-23-2023

\_\_\_\_\_  
Vicki Piontek, Esquire

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Date

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